

MAY 09 2002

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BY

Richard M. Burr

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

.....
KENNETH SHAFER ET AL

SERIAL NO. 09/853,406

: ART UNIT: 1731

FILED: MAY 11, 2001

: EXAMINER: LOPEZ, CARLOS N.

FOR: CIGARETTE WITH SMOKE
CONSTITUENT ATTENUATOR

.....
Assistant Commissioner for Patents
Washington, D.C. 20231

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TC 1700

Sir:

The present application has been carefully studied in view of the outstanding Office
Action dated April 9, 2002, and reconsideration of that Action is requested in view of the
following comments.

Applicants respectfully request reconsideration of the restriction requirement
between the subject matter of claims 1-9 and 13-16 (Group I) and the subject matter of
claims 10-12 (Group II). The subject matter of all of these claims is closely related and
similar issues must be addressed in determining the patentability of these claims.
Moreover, in view of the similarity of the claimed subject matter, the fields of search are
similar and overlapping. Consistency demands that all of the claims be examined in a
single application thereby creating a single prosecution history. The Examiner has
discretion in such matters, and in this particular instance such discretion should be

employed in withdrawing the restriction requirement. Accordingly, for all of these reasons applicants respectfully request that the restriction requirement be withdrawn. However, as required by the Rules, applicants elect the method of making a cigarette and find claims 10-12 readable thereon.

With the election of Group II, applicants request that claims 14-16 also be examined with claims 10-12. Claims 14-16 define a cigarette where the tobacco rod has a location along its length at which location a particular smoke constituent is maximized. An inhibitor/attenuator of such smoke constituent is positioned at that location while the remainder of the cigarette is substantially free of the inhibitor/attenuator. Process claims 10-12 define a procedure for making the cigarette of claims 14-16.

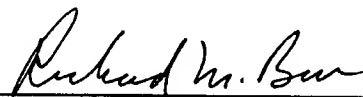
Applicants also traverse the requirement for an election of species between Species A of claims 8, 9 and 13 and Species B of claims 1-7 and 14-16. Here again the species are closely related and should be examined in one application for the same reasons noted above in traversing the restriction requirement. However, as required by the Rules, applicants elect Species B and find claims 1-7 and 14-16 readable thereon. If the restriction requirement and the requirement for an election of species are maintained, it is respectfully requested that at the very least claims 10-12 and 14-16 be examined on the merits.

In summary, it is requested that both the restriction requirement and the requirement for an election of species be withdrawn. Action on the merits of all of claims 1-16 is requested.

Respectfully submitted,

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